

## SELECTED STATES' WATER FORFEITURE LAW

State	Forfeiture for Non-Use	Time Period	Exception for Government Entities	Forfeiture Procedure
Alaska	<b>Yes</b> Alaska Stat. § 46.15.140(a)-(b)	5 years Alaska Stat. § 46.15.140(b)	<b>No</b> exception, but may apply for preferred use and receive preference in application Alaska Stat. §§ 46.15.090 and .150	Commissioner declares forfeiture Alaska Stat. § 46.15.140(b)
Arizona	<b>Yes</b> Ariz. Rev. Stat. Ann. §§ 45-141(C), 45-189(A)	5 years Ariz. Rev. Stat. Ann. § 45-189(A)	<b>Yes</b> , if facilities for using the full amount are maintained Ariz. Rev. Stat. Ann. § 45-188(C)	Director gives notice of pending administrative hearing Ariz. Rev. Stat. Ann. § 45-189(A)
California	<b>Yes</b> Cal. Wat. Code § 1241	5 years Cal. Wat. Code § 1241	<b>Yes</b> , if municipalities being surveys and bonds to develop means to use the water. Cal. Civ. Code § 1416	Reversion occurs after finding of the board, and public hearing if requested by forfeitor Cal. Wat. Code § 1241
Colorado	<b>No</b> statutory forfeiture, but common-law abandonment works in lieu of.	10 years creates a rebuttable presumption of abandonment for the engineers water rights tabulation C.R.S. § 37-92-402(11)	n/a (municipalities can always claim <b>intent to keep their water rights</b> )	Before abandonment declared, some due process required (notice and opportunity to respond). <i>Gardner v. State</i> , 200 Colo. 221 (1980).
Idaho	<b>Yes</b> Idaho Code §§ 42-222(2), -350(1)	5 years Idaho Code §§ 42-222(2), -350(1)	<b>Yes</b> , unless planning horizon in license has been exceeded Idaho Code § 42-223(2)	Director brings notice of forfeiture Idaho Code § 42-350(1)
Montana	<b>Yes</b> Mont. Code Ann. § 85-2-2314	Determined by Judge Mont. Code Ann. § 85-2-227(3)	<b>Yes</b> Mont. Code Ann. § 85-2-227(4)	Department may require permit holder to show cause Mont. Code Ann. § 85-2-314
Nevada	<b>No</b> , but statutes do address abandonment Nev. Rev. Stat. Ann. § 533-060(2)-(4)	Certain actions within past 10 years rebut presumption of abandonment Nev. Rev. Stat. Ann. § 533-060(4)	<b>Yes</b> Rights dedicated to municipal use are not subject to abandonment Nev. Rev. Stat. Ann. § 533-060(3)	Claimants can bring petition or State Engineer can order a determination Nev. Rev. Stat. Ann. § 533.090

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New Mexico	<b>Yes</b> N.M. Stat. Ann. § 72-5-28(A)	4 years N.M. Stat. Ann. § 72-5-28(A)	<b>Yes</b> N.M. Stat. Ann. § 72-5-28(C) Also allows a 40-year planning period to municipalities. § 72-1-9	State Engineer gives notice after 4 years. After 5 <sup>th</sup> year of inaction, rights automatically revert back to public use. N.M. Stat. Ann. § 72-5-28(A)
Oregon	<b>Yes</b> Or. Rev. Stat. § 540.610(1)	5 years Or. Rev. Stat. § 540.610(1)	<b>Yes</b> Or. Rev. Stat. § 540.610(2)(a)-(b)	Commission gives notice of hearing. If no protest, may cancel right. Or. Rev. Stat. §§ 540.631, .641
Washington	<b>Yes</b> Wash. Rev. Code §§ 90.14.160, .170, .180	5 years Wash. Rev. Code §§ 90.14.160, .170, .180	<b>Yes</b> Wash. Rev. Code § 90.14.140(2)(a)-(d)	Initiated by department notification, Wash. Rev. Code § 90.14.130, or by claimant petition, § 90.03.110
Wyoming	<b>Yes</b> Wyo. Stat. Ann. § 41-3- 401(a)	5 years Wyo. Stat. Ann. § 41-3- 401(a)	<b>No</b> exception, but municipalities high on “preferred use” list. Wyo. Stat. Ann. § 41-3-102	Initiated by State Engineer, Wyo. Stat. Ann. § 41-3-402, or by claimant petition, § 41-3- 401(b)(i)-(ii).

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